

REMARKS

This is intended as a full and complete response to the Final Office Action dated April 29, 2009, having a shortened statutory period for response set to expire on July 29, 2009. Applicants submit this response to place the application in condition for allowance or in better form for appeal. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-10, 12-14, 16, 18-27, 34, 36, and 37 are pending in the application. Claims 1-10, 12-14, 16, 18-27, 34, 36, and 37 remain pending following entry of this response.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 16, 34, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Owen et al.*, U.S. Patent No. 5,161,157 (hereinafter *Owen*) in view of Applicant's admitted prior art, and further in view of *Eustis et al.* U.S. Patent No. 6,928,377 (hereinafter *Eustis*).

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Oonk*, U.S. Patent No. 6,862,703 in view of *Deas*, U.S. Patent No. 6,065,090, and further in view of *Eustis*.

Claims 16, 18-21, 23-25, 27, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schwartz*, U.S. Patent No. 6,795,942 in view of *Deas*, and further in view of *Eustis*.

Claims 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schwartz*.

Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;

(C) resolving the level of ordinary skill in the art; and

(D) considering any objective indicia of nonobviousness.

Once the Graham factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.

Respectfully, Applicants submit that a prima facie case of obviousness has not been established. For example, the Examiner rejects independent claims 1, 16, 34, 36, and 37 on the basis of *Eustis*. However, Applicants respectfully submit that *Eustis* is not prior art.

The present application claims foreign priority benefits under 35 U.S.C. § 119 to European patent application No. 03 002 698.3, which was filed on February 12th 2003. *Eustis* was filed after the European patent application referenced above on February 12th, 2003, and therefore, is not prior art. Accordingly, Applicants submit that a prima facie case of obviousness has not been established.

Therefore, the claims 1, 16, 34, 36, 37, and the claims that depend therefrom are believed to be allowable, and allowance of the claims is respectfully requested.

Note Regarding Claims 7-14

Applicants note that the Final Office Action dated April 29th, 2009 does not include a statement of rejection for claims 7-14. Examiner however includes a discussion of claims 7-14 with reference to *Oonk* and the Applicant admitted prior art. Respectfully, Applicants submit that claims 7-14 depend on claim 1, which is believed to be allowable based on the arguments presented in the previous section. Accordingly, claims 7-14 are also believed to be allowable, and allowance of the claims is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

If the Examiner believes any issues remain that prevent this application from going to issue, the Examiner is strongly encouraged to contact the undersigned attorney to discuss strategies for moving prosecution forward toward allowance.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

/Gero G. MCCLELLAN, Reg. #44,227/

Gero G. McClellan
Registration No. 44,227
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant(s)